

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)	
COMMISSION OF THE ENVIRONMENTAL)	
SURCHARGE MECHANISM OF KENTUCKY)	CASE NO. 95-445
UTILITIES COMPANY AS BILLED FROM)	
FEBRUARY 1, 1995 TO JULY 31, 1995)	

O R D E R

On October 6, 1995, the Commission initiated its second six-month review of Kentucky Utilities Company's ("KU") environmental surcharge as billed to customers from February 1, 1995 through July 31, 1995.¹ Pursuant to KRS 278.183(3), the Commission must review, at six-month intervals, the past operations of the surcharge and, after hearing, disallow any surcharge amounts that are not just and reasonable and reconcile past surcharge collections with actual costs recoverable.

In anticipation that those parties to KU's last six-month review would desire to participate in this proceeding, the Attorney General's Office ("AG"), Lexington-Fayette Urban County Government ("LFUCG"), and the Kentucky Industrial Utility Customers ("KIUC") were deemed parties to this proceeding. A public hearing was held on December 15, 1995. All information requested at the public hearing has been filed.

¹ As KU's surcharge is billed on a two-month lag, the amounts billed from February 1995 through July 1995 are based on costs incurred from December 1994 through May 1995.

APPEAL OF CASE NO. 93-465²

On July 28, 1995, the Franklin Circuit Court entered a judgment on the appeal of the Commission's Orders in Case No. 93-465 establishing an environmental surcharge for KU. The Court vacated that portion of those Orders allowing KU to recover the current cost of environmental expenditures incurred before January 1, 1993, and remanded the case to the Commission. That judgment has been appealed to the Kentucky Court of Appeals by KIUC, the AG, KU, the Commission, and others.

KIUC now urges the Commission to reduce immediately KU's environmental surcharge to reflect the exclusion of the current costs of all pre-1993 environmental compliance projects. KIUC argues that the Commission need not wait until the exhaustion of appeals to implement the Court's judgment, as sound public policy dictates implementation during the appeal process. Admitting that it was unable to calculate precisely the amount of the reduction, KIUC requests that the Commission obtain the necessary information from KU. In addition, KIUC argues that the actual reduction should be returned to ratepayers with interest.

The AG and LFUCG agree with KIUC's arguments and the AG further claims that until KU posts a supersedeas bond pursuant to Civil Rule ("CR") 62, KU and the Commission must operate under the Court's judgment.

² Case No. 93-465, The Application of Kentucky Utilities Company to Assess a Surcharge Under KRS 278.183 to Recover Costs of Compliance with Environmental Requirements for Coal Combustion Wastes and By-Products, Order dated July 19, 1994.

KU argues that the Commission lacks jurisdiction to grant the refund requested by KIUC now because subject matter jurisdiction lies in the Kentucky Court of Appeals as a result of the appeal from the Circuit Court. KU also contends that KIUC's argument ignores the language and legal effect of the Court's judgment remanding that case to the Commission for further findings when no such remand has yet occurred. Finally, KU argues that KIUC's requested relief is unreasonable because it would require the Commission to ignore the uncertainty caused by the numerous appeals and order KU to refund monies that may have to be recollected in the future.

The Commission finds that it cannot implement the Court's judgment until Case No. 93-465 is actually remanded. Contrary to KIUC's argument, sound public policy requires the Commission to recognize the uncertainties present during the appeal and wait until all appeals are exhausted. Further, the Commission is not persuaded by the AG's claim concerning the supersedeas bond, as no evidence has been provided in this record to establish the applicability of CR 62 in this case.

KU contends that the Commission's August 22, 1995 Order in Case No. 95-060³ appropriately balanced the interests of ratepayers and the utility by making subject to refund all environmental surcharge revenues collected from that date pending the final

³ Case No. 95-060, The Examination by the Public Service Commission of the Environmental Surcharge Mechanism of Kentucky Utilities Company as Billed from August 1, 1994 to January 31, 1995.

determination in Case No. 93-465. In light of the continuing appeals process, the Commission believes it is appropriate to continue the subject to refund provision.

SURCHARGE ADJUSTMENT

KU determined that for the six-month review period, it over-recovered its environmental costs by \$532,777.⁴ No party objected to KU's calculations.

KU calculated a negative monthly correction factor of .17 percent⁵ to be applied to the six billing months consistent with the next review period following the Commission's decision in this proceeding.⁶ KU later modified this proposal, expressing its desire to apply the correction factor to the months remaining in the six-month billing period ending July 31, 1996 and to avoid affecting two consecutive six-month review periods.⁷

The Commission accepts KU's calculation of an over-recovery of \$532,777 for the six-month period under review. During the verification of KU's calculations, the Commission concluded that

⁴ Response to the Commission's Order dated October 6, 1995, Item 1, and revisions filed November 20, 1995 and December 21, 1995. The responses to Item 1 reflected the impact of the Commission's August 22, 1995 Order in Case No. 95-060. ES Forms 4.0, 4.1, and 4.2 were later revised to reflect corrections to the deferred income tax balances for January through May 1995. The total over-recovery for the review period was increased from \$511,815 to \$532,777.

⁵ Revised ES Form 4.0, filed November 20, 1995.

⁶ Willhite Direct Testimony, at 3.

⁷ Response to the Commission's Order dated November 6, 1995, Items 1 and 2.

the ES Form 4.0 format needs clarification. A revised ES Form 4.0, showing the calculation of the over-recovery, is included in Appendix A. The revised format should be used in future six-month reviews.

The Commission agrees with KU that, for this proceeding, the correction factor should be applied to the four months remaining in the current six-month billing period. Since the correction factor was calculated on the basis of six months, it will have to be restated to reflect four months. Using a mathematical ratio, KU's correction factor for the next four monthly surcharge billings is a negative .248 percent.⁸ KU should include this negative correction factor on its next monthly surcharge report and continue to apply the factor through the July 1996 billing month.

IT IS THEREFORE ORDERED that:

1. KU shall apply a negative correction factor of .248 percent to the environmental surcharge factors, beginning with its next monthly surcharge report and continuing through and including the July 1996 billing month.

⁸ At the hearing, KU had suggested a similar ratio-based approach, see Transcript of Evidence, December 15, 1995, at 37. The calculation of the .248 percent factor is as follows:

Monthly Correction Factor	.16527 percent
[Shown with 5 decimal places]	
Multiplied by	<u>6</u> months
Cumulative Correction Factor	.99162 percent
Divided by Remaining Months in	
Six-Month Review Period	<u>4</u> months
Restated Monthly Correction Factor	.24790 percent
Rounded to 3 decimal places	.24800 percent

2. KU's proposed correction factor is denied.


3. All surcharge revenues collected during the six-month period under review shall be subject to refund pending the final resolution of Case No. 93-465. KU shall maintain its records in a manner that will enable it, or the Commission, or any of its customers to determine the amounts to be refunded and to whom due in the event a refund is ordered.


4. The modified reporting format shown in Appendix A, shall replace the corresponding format authorized in Case No. 93-465.

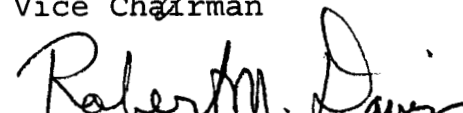
5. KU shall incorporate all revisions made in this Order in the appropriate future six-month review proceedings.

Done at Frankfort, Kentucky, this 6th day of March, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 95-445 DATED MARCH 6, 1996.

KENTUCKY UTILITIES COMPANY - ENVIRONMENTAL SURCHARGE - ES FORM 4.0 SIX MONTH REVIEW RECAP OF BILLING FACTORS AND REVENUE For the Period December 1994 through May 1995

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
CURRENT EXPENSE MONTH	GROSS ENVIRON SURCHARGE REVENUE REQUIREMENT Note 1	ADJUSTED TOTAL COMPANY REVENUE [INCL FAC, EXCL ES] Note 1	EXP MONTH KY RETAIL JURIS REV [INCL FAC, EXCL ES] Note 1	ENVIRON SURCHARGE	KY JURIS	KY JURIS	KY JURIS	OVER/(UNDER)	OVER/(UNDER)	TOTAL COMPANY
				MONTHLY BILLING	SURCHARGE	REVENUE	OVER/(UNDER)	COLLECTION	OVER/(UNDER)	
				FACTOR	ALLOWED	AS BILLED	COLLECTION	GROSS-UP FACTOR	COLLECTION	
				BILLED	ADJUSTED	Note 3	Note 4	Note 5	Note 6	
				Note 2	Note 2	Note 3	Note 4	Note 5	Note 6	
DEC 1994	1,302,080	54,146,155	42,586,364							
JAN 1995	1,755,087	53,927,737	47,047,883							
FEB 1995	1,765,511	53,902,607	48,202,244	2.59%	2.40%	1,022,073	1,246,797	224,724	1.118259	251,300
MAR 1995	1,775,415	53,662,582	43,455,165	3.49%	3.25%	1,529,056	1,511,413	(17,643)	1.234895	(21,787)
APR 1995	1,788,192	53,283,721	38,880,405	3.52%	3.28%	1,581,034	1,372,101	(208,933)	1.370452	(286,333)
MAY 1995	1,585,296	53,449,817	38,985,150	3.56%	3.31%	1,438,366	1,390,762	(47,604)	1.371030	(65,267)
JUN 1995		53,273,498	42,199,876	3.56%	3.36%	1,306,382	1,506,108	199,726	1.262409	252,136
JUL 1995		53,396,566	48,545,843	3.12%	2.97%	1,157,859	1,524,002	366,143	1.099920	402,728
TOTALS	9,971,581					8,034,770	8,551,183	516,413		532,777
TOTAL OVER/(UNDER) COLLECTION FOR SIX MONTH PERIOD										
TOTAL SIX MONTHS REVENUE (COLUMN 3), EXPENSE MONTHS DECEMBER 1994 THROUGH MAY 1995										
CORRECTION FACTOR - REDUCTION/(INCREASE)										

NOTES:

- Recalculated to reflect -
 - The Commission's August 22, 1995 Order in Case No. 95-060.
 - A correction to Deferred Tax Balances for January - May 1995 Expense Months. Information provided by KU in its Post-Hearing Data Responses, filed December 21, 1995.
- The Surcharge Factor is applied to customer bills in the second month following the month in which costs are incurred.
 - Billed Factor from Monthly ES Form 1.0
 - Adjusted Factor is Column 2 divided by Column 3, Expense Month amounts.
- Surcharge Revenue Allowed is Expense Month Column 4 multiplied by the corresponding Billing Month Column 6.
- Surcharge Revenue As Billed from Monthly ES Form 3.0.
- Gross-Up Factor is Column 3 divided by Column 4, Billing Month amounts.
- Total Company Over/(Under) Collection is Column 9 multiplied by Column 10.